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| EXAMINER | | | | |
| BLACK, MELISSA ANN | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/531,682

Applicant(s)

HESELHAUS, UDO

Examiner

MELISSA A. BLACK

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1 and 3-12 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

The following office action is in response to amendments and remarks filed January 28, 2008. Claims 1, 3-12 are pending in the application and are rejected as set forth below.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 3, "can to be" does not make sense, and furthermore the "to" is a newly added limitation to the claim and is not underlined. It is unclear to the examiner what the phrase should be.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 3 and 8 are rejected under 35 U.S.C. 102(a) as being anticipated by US Pat # 6,742,829 to Reihl.

Re Claim 1, Reihl discloses a motor vehicle having at least one movable roof part (6) that can be fully opened and can be fully moved to achieve this full opening (see Figure 4), extends from an area adjacent to a windshield frame to a rear roof part (8, See Figure 1a), wherein a

raisable rear section (22) of the movable roof part is raisable in such a way that a section of the movable roof part located in front of the raisable rear section remains in a closed position (Figure 3), and wherein the movable roof part (6) occupies the entire width between upper edges of side windows of motor vehicle (See Figure 1a).

Re Claim 3, Reihl discloses the movement of the raisable rear section into and out of its raised position is possible while the car is traveling.

Re Claim 8, Reihl discloses the rear roof part (8) can be lowered below the belt line of the automobile (see Figure 5).

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat # 6,742,829 in view of DE 199 26 474 to Minatti.

Re Claim 4, Reihl fails to disclose that the movable roof part is covered with a flexible covering.

Minatti teaches (Figure 8), a flexible covering for the movable roof part.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to include the flexible covering as taught by Minatti on the device of Reihl in order to make the movable roof part more compact for storage.

Re Claim 9, Reihl fails to disclose the rear roof part covers a rigid roll bar.

Minatti teaches a rear roof part covers on top of a rigid roll bar (6, See figures 6-8).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to include the rigid roll bar as taught by Minatti on the device of Reihl in order to further support the rear roof part.

Allowable Subject Matter

5. Claims 5-7 and 10-12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed January 28, 2008 have been fully considered but they are not persuasive. Applicant is arguing to the details that are not in the claim language. With the broadest interpretation of the claim, Reihl's moveable roof (6) does extend in entire from window to window. The definition of raised is to cause to move upward; lift. The rear roof section (22) of Reihl is raised, might not be in the same manner as the applicants, but it is raised in the manner of the claim language.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA A. BLACK whose telephone number is (571)272-4737. The examiner can normally be reached on M-F 7:00-3:30 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis H. Pedder/
Primary Examiner, Art Unit 3612
/M. A. B./
Examiner, Art Unit 3612